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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,457	10/17/2001	Johnson Jiahui Qin	CSCO-117728	7400

7590 02/11/2005

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EXAMINER
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REILLY, SEAN M

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/982,457	QIN, JOHNSON JIAHUI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sean Reilly	2153	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This office action is a first action on the merits of this application. Claims 1-34 are presented for further examination.

#### ***Priority***

1. The effective filing date for the subject matter defined in the pending claims in this application is 10/17/2001.

#### ***Claim Objections***

2. Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 22 is a duplicate of claim 21.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 10, 12-13, 15-17, 21, 27, and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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4. Claim 1 recites the limitation "a user" in line 4. It is unclear whether "a user" in line 4 refers to the requester and registered user of line 3 OR to another user. It is presumed that the requester/registered user on lines 3 and 4 are one in the same.
5. Claim 10 recites the limitation "of Claim 10" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is presumed claim 10 should depend upon claim 9.
6. Claims 12 and 13 each recite the limitation "software distribution framework (SWDF)" in line 2. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 15 recites the limitation "of Claim 15" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is presumed claim 15 should depend upon claim 14.
8. Claims 15-17 each recite the limitation "the SWDF" in line 1. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 21 recites the limitation "of Claim 21" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is presumed claim 21 should depend upon claim 20.
10. Claim 27 recites the limitation "of Claim 27" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is presumed claim 27 should depend upon claim 26.
11. Claim 32 recites the limitation "of Claim 32" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is presumed claim 32 should depend upon claim 31.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-18, 20-28, and 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Ginter et al. (U.S. Patent Number 5,892,900; hereinafter Ginter).

13. Regarding claim 1, Ginter discloses an automated software distribution method comprising: receiving a request to access a software distribution system (Col 315, lines 42-43); determining if the requester is a registered user (inherent for authenticating the user; Col 315, lines 43-50); determining if a user has authorization (along with the user authentication the transaction must also be authorized; Col 316, lines 22-23) to perform commercial scaleable software distribution framework activity (obtaining content; i.e. downloading a software program; Col 316, lines 6-7); performing an internal process associated with a scaleable software distribution framework if authorized (software download transaction; Col 316, lines 6-34); and performing a scaleable software distribution system commerce transaction if authorized (Col 316, lines 22-23 and line 32-34).

14. Regarding claim 2, Ginter discloses notifying said requester that access is not granted (Col 58, line 36; Col 315, line 44).

15. Regarding claim 3, Ginter discloses the request is received from an internal user via an internal LAN (Col 168, lines 10-15).

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16. Regarding claim 4, Ginter discloses the request is received from an external user via the internet (Col 315, lines 26-28).

17. Regarding claim 5, Ginter discloses the user is able to access an internal storage of software products (Col 315, lines 59-63).

18. Regarding claim 6, Ginter discloses an internal user is able to download software code, make changes and upload the modified code (Col 285, line 65 – Col 286 line 39; Col 320, lines 43-46).

19. Regarding claim 7, Ginter discloses the transaction is engaged in an electronic commerce environment (Col 1, lines 17-20).

20. Regarding claim 8, Ginter discloses a software transaction process is utilized (Col 316, lines 6-34).

21. Regarding claim 9, Ginter discloses an internal software publishing process comprising: receiving a request to engage in software image publishing activities (adding content to an object, publishing a new program would consist of adding content to an empty object, Col 285, line 66 – Col 286 line 6; an object may be a software program since Ginter discloses the system can distribute software products, Col 7, lines 48-54); engaging in a data population process (inherent for object storage); checking a software distribution information to ensure the requester has authorization to engage in software image publication activities (each object has predefined object modification restrictions, Col 286, lines 7-33; including user restrictions, Col 286, lines 34-48); receiving requisite supervisory authorization to proceed with the publication (object modification restrictions Col 286, lines 7-48); and executing a software publication (“published

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object”, Col 15, lines 52-57; objects added to the Ginter system are published based on the distribution restrictions specified).

22. Regarding claim 10, Ginter discloses the request is received from a software engineer (author) that has built a software image ready for commercial release (Col 7, lines 48-57).

23. Regarding claim 11, Ginter discloses the data population process includes a software distribution framework (SWDF) Information Model, SWDF Product Model and SWDF Packaging Model (Figure 5B).

24. Regarding claim 12, Ginter discloses the SWDF packing model is completed by pulling data from a database that includes features that map a software image and software product code (Col 59, lines 28-36).

25. Regarding claim 13, Ginter discloses SWDF authorization information is checked to make sure the requester has appropriate role risibility to engage in image publishing (Col 286, lines 7-33).

26. Regarding claim 14, Ginter discloses a commercial transaction process comprising: examining the commercial transaction rights of a requester (Col 316, lines 6-22); making a determination if the requester has entitlement to proceed with a commercial transaction (Col 316, lines 22-23); engaging in a commercial transaction entitlement process (Col 316, lines 6-34); investigating to determine if a Requester successfully completed a commercial transaction entitlement process (Col 316, lines 29-34); executing the Requested commercial transaction (Col 316, line 34).

27. Regarding claim 15, Ginter discloses the SWDF system stores information on the commercial transaction rights of external customers (Col 6, lines 43-67).

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28. Regarding claim 16, Ginter discloses the SWDF system stores information the entitlements of external customers to engage in commercial transactions (Col 6, lines 43-67).

29. Regarding claim 17, Ginter discloses the SWDF Entitlement Information includes information on whether the customer has a service contract or paid money for the requested software product (Col 6, lines 43-67) and if the customer has entitlement (Col 316, line 22) to proceed the requested software product is downloaded (Col 316, line 34).

30. Regarding claim 18, Ginter discloses the commercial transaction process is an electronic commerce process (Col 1, lines 17-20).

31. Regarding claim 20, Ginter discloses an automated software distribution system comprising: a means for communicating information associated with an automated software distribution method (Figure 8, Component 666); a means for processing said information associated with an automated software distribution method (Figure 8, Component 654); and a means for storing and tracking said information associated with an automated software distribution method (Figure 8, Component 652).

32. Regarding claims 21 and 22, Ginter discloses the information associated with an automated software distribution method is organized in accordance with software distribution framework (SWDF) modules that manage the software distribution information and activities in accordance with SWDF models (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

33. Regarding claim 23, Ginter discloses the information associated with an automated software distribution method is tracked and manipulated by means for indicating classes, attributes and operations (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).



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34. Regarding claim 24, Ginter discloses a means for manage different areas of framework information including user information, authorization information, software information, configuration information, commerce information, publication information, and distribution information (Figure 5A and 5B; Col 59 lines 8-15; Col 59, lines 36-61).

35. Regarding claim 25, Ginter discloses information objects are linked together by means for uniquely identifying (inherent) the object (Col 59, lines 8-22).

36. Regarding claim 26, Ginter discloses an automated software distribution apparatus comprising: a bus for communicating information associated with an automated software distribution method (Figure 8, Component 653); a processor for processing said information associated with an automated software distribution method (Figure 8, Component 654); and a memory for storing and tracking said information associated with an automated software distribution method (Figure 8, Component 652).

37. Regarding claim 27, Ginter discloses said bus is communicatively coupled to a communication network (Figure 8).

38. Regarding claim 28, Ginter discloses an automated software distribution method is implemented via said communications network (Col 315, lines 42-43).

39. Regarding claim 30, Ginter discloses software images are published based on software rights associated with a business rule/responsibility model and software products are distributed to customers based on commerce model (Col 4, lines 14-68).

40. Regarding claims 31-34, the limitations of claims 31-34 are similarly drawn to the limitations of claims 1 and 4-6, respectively. Hence, claims 31-34 are rejected using similar rationale.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

41. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al. (U.S. Patent Number 5,892,900; hereinafter Ginter).

42. Regarding claim 19, the Examiner takes Official Notice that it was well known in the art at the time of invention that industry standard software products sold comprise software image binary executables, readme information, installation instructions, product manuals, guide and software requirements, and software release note, and software licensing key. It would have been obvious to one of ordinary skill in the art at the time of invention to include software image binary executables, readme information, installation instructions, product manuals, guide and software requirements, and software release note, and software licensing key within a software product distributed using Ginter's distribution system, in order to meet software product industry standards at the time of invention.

43. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al. (U.S. Patent Number 5,892,900; hereinafter Ginter) as applied above, in further view of Mann (Newsgroup post comp.unix.sco.announce – O'Reilly Releases Pocket Ref to XML).

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44. Regarding claim 29, Ginter discloses a HTML-based software distribution framework utilized to enable automatic distribution of software over the Internet and World Wide Web (WWW) (Col 315, lines 26-29) while coordinating, correlating and collecting information that assists software distribution management and maintenance activities (Col 315, line 42 – Col 316, line 34). However, Ginter fails to disclose using XML to facilitate the web-based software distribution. In a related art, Mann discloses using XML to facilitate electronic commerce transactions (Mann, 1<sup>st</sup> ¶). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Ginter's distribution system to use XML instead HTML, since XML provides a more structured medium than HTML (Mann, 3<sup>rd</sup> ¶).

### *Conclusion*

45. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

46. This office action is made **NON-FINAL**.

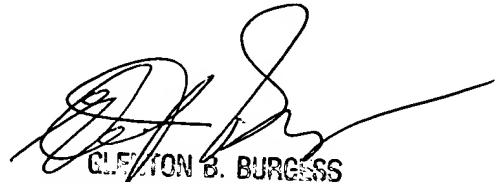
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
1/27/2005

  
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